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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORLAND DIVISION

CANDICE LOGAN, an individual, and

SHANNON HEIDELBERG, an

individual,

Case No. 3:20-cv-1617-SI

Plaintiffs,

**WALMART INC.'S THIRD-PARTY
COMPLAINT AGAINST BROSNAN
RISK CONSULTANTS, LTD.**

WALMART INC., a Delaware
corporation, and JANE DOE, an
individual,

Defendants.

JURY TRIAL DEMANDED

WALMART INC., a Delaware
corporation,

Third-Party Plaintiff,

v.

BROSNAN RISK CONSULTANTS, LTD,
a New York limited company,

Third-Party Defendant.

Without admitting any allegations denied in its Answer to Plaintiff's Complaint, Defendant/Third-Party Plaintiff Walmart Inc. ("Walmart") alleges its claims against Third-Party Defendant Brosnan Risk Consultants, Ltd. ("Brosnan") as follows:

PARTIES

1. Plaintiffs are residents of Oregon.
2. Defendant/Third Party Plaintiff Walmart was at all material times a Delaware corporation.
3. Third-party Defendant Brosnan was and is a New York foreign business corporation doing business in Oregon.

JURISDICTION AND VENUE

4. On August 28, 2020, Plaintiff served Walmart with a Summons and Complaint captioned *Candice Logan and Shannon Heidelberg v. Walmart Inc and Jane Doe*, Case No. 20CV28874, filed in the Circuit Court of the State of Oregon for the County of Multnomah attached hereto as Exhibit 1.
5. On September 17, 2020, Walmart timely removed this action to the United States District Court of Oregon, Portland Division under 28 U.S.C. § 1332(a)(1) because there is diversity jurisdiction over the parties and an amount in controversy that exceeds \$75,000.
6. Brosnan is a New York Corporation over which this Court has diversity jurisdiction.
7. This Court has specific personal jurisdiction by reason that Brosnan is transacting business within the State of Oregon, regularly doing business and soliciting business in Oregon, deriving revenue from services utilized in Oregon and maintaining a branch and numerous employees in Oregon. Additionally, the underlying act of alleged discrimination and false arrest occurred in the forum state of Oregon with Brosnan's Oregon security guards.

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FACTS

8. Plaintiffs allege that on or about November 10, 2019, Walmart falsely arrested and discriminated against them as described in Paragraph 3 of Plaintiff's Complaint (Exhibit 1). Plaintiffs allege Jane Doe followed Plaintiffs to their car, told Plaintiff the police had been called on them, and demanded Plaintiffs return to the store.
9. At all material times, Brosnan had a contract with Walmart to provide security services at the subject Walmart store.
10. Based on information and belief, Brosnan employed Defendant Jane Doe referred to in Plaintiffs' Complaint.

FIRST CLAIM FOR RELIEF

Negligence / Negligence Per Se

11. Walmart re-alleges paragraphs 1 through 8 above.
12. Third-party Defendant Brosnan had a duty to provide security services per the terms of its security contract with Walmart in a non-discriminatory manner that complied with all applicable laws.
13. Plaintiffs allege Defendant Jane Doe, believed to be an employee of Brosnan, unlawfully detained and discriminated against Plaintiffs.
14. Brosnan's agent(s) including Jane Doe failed to act reasonably and per the terms of its contract when it unlawfully detained and discriminated against Plaintiffs.
15. It was foreseeable that failure by Brosnan to perform its security duties in a non-discriminatory or unlawful manner could result in harm to Walmart's patrons.
16. Brosnan directly and proximately caused Plaintiff's alleged damaged in the ways described above.

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SECOND CLAIM FOR RELIEF

Contribution

17. Walmart re-alleges paragraphs 1 through 8 above.
18. If Walmart is found liable to Plaintiffs, Walmart is entitled to contribution from Brosnan for its proportionate share of fault. The proportional allocation of fault should be determined by the jury.

THIRD CLAIM FOR RELIEF

Breach of Contract, Contractual Indemnity

19. Walmart re-alleges paragraphs 1 through 8 above.
20. Brosnan had a written contract to perform full premises security services at Walmart's property and indemnify and hold harmless Walmart against any Claim arising out of any actual or alleged negligence or willful misconduct by Brosnan or Brosnan's agent, employee, representative, or subcontract, related to services Brosnan provides under the agreement.
21. Brosnan failed to indemnify and hold harmless Walmart from Plaintiffs' claims as alleged in Exhibit 1.
22. Walmart is entitled to damages from Brosnan resulting from Brosnan's breach including those to which Plaintiff may be entitled from Walmart by way of settlement or judgment and for attorney's fees and costs incurred in defending against Plaintiffs' claims.

RESERVATION OF RIGHTS

23. Walmart reserves the right to amend its Third-Party Complaint to add additional parties and third-party claims, cross-claims, or counterclaims.

PRAAYER

WHEREFORE, Walmart prays for judgment against Brosnan on its third-party claims for any damages paid by Walmart by way of settlement or judgment. Walmart also prays for judgment against Brosnan for its attorneys' fees, costs, and distributions incurred herein, and for

any further relief as this Court deems appropriate.

DATED this 25th day of November, 2020.

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DISTRICT OF OREGON

PORLAND DIVISION

CANDICE LOGAN, an individual, and
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Case No. 3:20-cv-1617-SI

Plaintiffs,

CERTIFICATE OF SERVICE

v.

WALMART INC., a Delaware
corporation, and JANE DOE, an
individual,

Defendants.

I hereby certify that on the 25th day of November, 2020, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing to all registered individuals. Additionally, I hereby certify that a true copy of the foregoing **THIRD-PARTY COMPLAINT** was served as stated below on:

/ / /

Gregory Kafoury
Kafoury & McDougal
411 SW 2nd Avenue, Suite 200
Portland, OR 97204
Attorneys for Plaintiff

- By hand delivery
- By first-class mail*
- By overnight mail
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Fax #: (503) 224-2673
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kiel@kafourymcdougal.com
- By U.S. District Court CM/ECF e-filing
service to registered parties

*With first-class postage prepaid and deposited in Portland, Oregon.

DATED this 25th day of November, 2020.

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